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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/521,005
Filing Date: March 07, 2000
Appellant(s): PALLESEN et al.

Brenna A. Brock
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/23/09 appealing from the Office
action mailed 7/18/08

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Appeal No. 2005-0611

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: claim 37 should be removed from section A on page 7 of the brief.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,787,453	KENNEDY	7-1998
6,385,642	CHLAN	5-2002
US 2006/0271414 A1	FENTON	11-2006

Applicant's Background of the Invention

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12, 14-24, and 26-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Background of the Invention (pages 1-2 of Applicant's originally filed specification) in view of Kennedy (5,787,453), and further in view of Chlan et al. (US 6,385,642 B1).

(A) As per claim 1, Applicant's Background of the Invention discloses a system comprising:

(a) a web server application or application running in conjunction with a web server, wherein the necessary mathematical expressions and data are typically encoded into the programming for the insurance product application (page 2, lines 5-10);

(b) an insurance application that gathers information from a consumer and returns rate quote information to the consumer (page 2, lines 5-10);

(c) a web server or application having mathematical expressions and data encoded into the programming for the insurance product application for calculating insurance product rates (page 2, lines 5-10);

(d) a web server for returning rate quote information to the consumer (page. 2 lines 5-12); and

(e) a website for a consumer to be provided with insurance rate information from the web server (page 1, lines 16-26 and page 2, lines 5-12).

Applicant's Background of the Invention fails to expressly disclose "a database interface" or a routine operable to parse a product rate expression stored in the product rate information cache into at least one token, and operable to evaluate the at least one token to determine a product rate.

Kennedy includes a system that parses formulas into operands and operators that are further evaluated to obtain a result (Kennedy; col. 3, lines 15-24 and col. 8, line 44 to col. 10, line 39). Further, Kennedy includes in Figure 7, a processors #1-2

connected to a SQL database for communicating information between the processors and the database (col. 12 lines 31-47) (reads on "a database interface").

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the formula parser of Kennedy to the system described in Applicant's Background of the Invention with the motivation of providing users with very little grasp of computer programming methodologies a way to develop systems to calculate virtually anything of a mathematical nature once they can identify the source of data to be used, a target location for the result, and the fundamental mathematical operations needed to derive the result (Kennedy; col. 3, lines 30-35) .

Applicant's Background of the Invention and Kennedy fail to expressly disclose that the product information cache stores the product rate information received from the database.

Chlan discloses a product information cache storing the product rate information received from the database (col. 2, lines 54-58, col. 5, line 53 – col. 6, line 58, and Fig. 1 of Chlan).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Chlan within Applicant's Background of the Invention and Kennedy. The motivation for doing so would have been to have fewer interactions with the database in order to prevent inefficient use that can lead to higher costs (col. 2, lines 38-41 & 54-58 of Chlan).

(B) As per claim 2, Applicant's Background of the Invention discloses storing rating factors in look-up tables (page 1, lines 24-25).

(C) As per claim 3, Kennedy discloses a SQL database having a number of dimensions (col. 6 lines 50-60). The skilled artisan would have found it obvious to modify the system of Applicant's Background of the Invention to include the features of Kennedy with the motivation of enabling the user to efficiently access and analyze data stored in the database. As per the recitation of "indexed by consumer information", it is respectfully submitted that a typical SQL database indexes any of the information stored in a database, and this would have been an obvious modification for the purpose of reducing the time to retrieve data and organizing the data within the database efficiently.

(D) As per claims 4-5, Kennedy discloses an operand representing a variable and an operation identifier representing an operation which is in the set consisting of mathematical and data transfer operations (reads on "logic or number operator") (Kennedy; col. 3, lines 15-24, col. 6 lines 13-26, col. 8, line 44 to col. 10, line 39, col. 14 lines 1-67). The motivation for combining Kennedy within Applicant's Background of the Invention is given above in claim 1, and incorporated herein.

(E) As per claim 6, Kennedy teaches the use of Reverse Polish notation and other notations (Kennedy; col. 8, lines 54-60, Figures 5a-b). It would have been obvious to

one of ordinary skill in the art at the time of the invention to modify the expressions taught collectively by Applicant's Background of the Invention and Kennedy with the motivation of using a conventional mathematical field ordering notation that most readers would be familiar with (Kennedy; col. 8, lines 55-57).

(F) As per claims 7, 10, 19, and 31, Applicant's Background of the Invention discloses insurance product rate information (page 2, lines 5-12).

(G) As per claims 8 and 18, Kennedy teaches the parsing of formulas into tokens and the evaluation of the tokens to provide a result (Kennedy; col. 3, lines 15-24 and col. 8, line 44 to col. 10, line 39). It would have been obvious to one of ordinary skill in the art at the time of the invention to add the feature of Kennedy to the system of Applicant's Background of the Invention with the same motivation as applied to claim 1, and incorporated herein.

(H) As per claim 9, Applicant's Background of the Invention discloses a website for gathering customer information, providing insurance product rate quotes, and provide the product rate and other information to the consumer (page 1, lines 16-25, page 2, lines 5-12).

(I) As per claims 11-12, Applicant's Background of the Invention discloses a web server or application running in conjunction with the web server, and a web site for the consumer to provide information to the web server (page 1, lines 16-25, page 2, lines 5-12).

(J) As per claim 14, Applicant's Background of the Invention discloses a web server and application having the mathematical expressions and data encoded in for providing insurance product information, wherein the web server provides information to the customer on a product rate quote information (page 2, lines 5-12). The remainder of claim 14 repeats the same limitations as claims 1 and 2, and is therefore rejected for the same reasons given for claim 14, and incorporated herein.

(K) Claim 15 differs from system claim 1 by reciting the step of "loading product information including at least one product rate expression from a database." As per this step, Applicant's Background of the Invention discloses encoding mathematical expressions and data into the programming of the insurance product application to provide insurance rate quotes (page 2, lines 5-12). The remainder of claim 15 repeats the same limitations as claims 1, 9, and 14, and is rejected for the same reasons given above in the rejections of those claims, and incorporated herein.

(L) Claim 16 repeats the same limitations as claims 2 and 14, and is rejected for the same reasons given above in the rejections of those claims, and incorporated herein.

(M) As per claim 17, Applicant's Background of the Invention discloses a web server and application having the mathematical expressions and data encoded in for providing insurance product information, wherein the web server provides information to the customer on a product rate quote information (page 2, lines 5-12). It does not disclose this information being stored as a plurality of records in a database. However, Kennedy clearly discloses the use of a SQL database having tables for storing data (Fig. 7, col. 8 lines 16-36). It is respectfully submitted that storing data in tables for retrieval of the that data is a form of a record in a database.

(N) Claims 20-23 repeat the same limitations as claims 4-6, and are therefore rejected for the same reasons given for those claims, and incorporated herein.

(O) As per claim 24, Kennedy teaches the parsing of formulas into tokens and the evaluation of the tokens to provide a result, wherein the result is calculated using an addition module or multiplication module and data is retrieved from tables (Fig. 4-5b, col. 3, lines 15-24 and col. 8, line 44 to col. 10, line 39). It would have been obvious to

one of ordinary skill in the art at the time of the invention to add the feature of Kennedy to the system of Applicant's Background of the Invention with the same motivation as applied to claim 1, and incorporated herein. The remainder of claim 24 repeats the same limitations as claims 2 and 5, and is rejected for the same reasons given for those claims, and incorporated herein.

(P) Claim 26 repeats the same limitations as claim 1, and is therefore rejected for the same reasons given for claim 1, and incorporated herein.

(Q) Claims 27-30 and 32-36 repeat the subject matter of system claims 15-18 and 20-24 as a computer readable medium comprising instructions executable on a processor rather than as a set of apparatus elements. As the underlying elements of claims 15-18 and 20-24 have been shown to fully disclosed by the collective teachings of Applicant's Background of the Invention and Kennedy in the above rejections of those claims, it is readily apparent that the system disclosed collectively by Applicant's Background of the Invention and Kennedy includes the computer readable medium to perform the functions of the system. As such, these limitations are rejected for the same reasons given above for claims 15-18 and 20-24, and incorporated herein.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Background of the Invention (pages 1-2 of Applicant's originally filed specification) in view of Kennedy (5,787,453), in view of Chlan et al. (US 6,385,642 B1), and in view of Fenton et al. (US 2006/0271414 A1).

(A) Referring to claim 37, Applicant's Background and Kennedy do not expressly disclose: wherein the database interface is further configured to load a new version of the product rate information into the product rate information cache, in response to the product rate information being modified, and wherein loading the new version of the product rate information into the product rate information cache reprograms the expression evaluation routine to use a new product rate expression when determining the product rate.

Chlan discloses updating the cache file responsive to the data received from the user (col. 2, lines 54-58, col. 5, line 21 – col. 6, line 58 and Fig. 1 of Chlan).

Fenton discloses wherein loading the new version of the product rate information into the product rate information database reprograms the expression evaluation routine to use a new product rate expression when determining the product rate (para. 51-56, para. 64, and para. 68 of Fenton).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned features of Chlan and Fenton within Applicant's Background of the Invention and Kennedy. The motivation for doing so would have been to prevent inefficient use that can lead to higher costs (col. 2, lines 38-

41 & 54-58 of Chlan) and to automatically evaluate the applications (para. 54 of Fenton).

(10) Response to Argument

In the Appeal Brief filed 23 September 2009, Appellant makes the following arguments:

A) The cited art fails to teach or suggest the product rate information cache of claim 1. Chlan does not teach or suggest a product rate information cache that stores product rate information, which includes a product rate expression.

B) Nothing in Kennedy teaches or suggests that such a programming system -- which is set up for people, not applications, to use -- could be incorporated into an insurance product application like the one described in Applicant's background, nor does modification of the insurance product application to include Kennedy's programming seem possible.

C) None of the references cited by the Examiner teach or suggest storing product rate expressions in a database, nor do they suggest an interface for receiving such product rate expressions from a database. Kennedy does not teach or suggest anything about product rate expressions, let alone storing product rate expressions in a database. Similarly, Applicant's Background does not teach or suggest storing product rate expressions in a database.

D) Nothing in Applicant's Background teaches or suggests anything about the dimensions of the lookup tables. Also, the cited art fails to teach or suggest that at least one multi-dimensional table is indexed by consumer information provided to the client interface.

E) The cited art fails to teach or suggest an expression evaluation routine that uses consumer information provided to the client interface to evaluate the at least one token.

F) The cited art fails to teach or suggest that loading the new version of the product rate information into the product rate information cache reprograms the expression evaluation routine to use a new product rate expression when determining the product rate.

Examiner will address Appellant's arguments in sequence as they appear in the brief.

Arguments A & C:

In response to Appellant's first and third arguments, the Examiner respectfully submits that a form of a "product rate expression" is disclosed at page 2, lines 5-12 of the originally filed specification. For example, this paragraph discloses using mathematical expressions to calculate insurance product rates. It is unclear how this is not a form of a

product rate expression. It appears that this is an expression that is used to calculate an insurance product rate, and is thus clearly a form of a "product rate expression." Also, the Examiner respectfully submits that Applicant has failed to provide a specific definition of a product rate expression. As such, the Examiner has given the claim language the broadest interpretation and has applied art accordingly.

Kennedy teaches the storing of formulas in a data base (see col. 3, lines 15-78 of Kennedy). Chlan discloses a product information cache storing the product rate information received from the database (see col. 2, lines 54-58, col. 5, line 53 – col. 6, line 58, and Fig. 1 of Chlan). One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Argument B:

In response to Appellant's second argument, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Arguments D & E:

In response to Appellant's fourth and fifth arguments, the Examiner respectfully submits that Appellant acknowledges that Kennedy teaches a database having a number of dimensions. Furthermore, a typical SQL database indexes any of the information stored in a database. Kennedy teaches indexing by information (see Fig. 4 and col. 8, lines 16-65 of Kennedy). Kennedy does not expressly teach the specific data (i.e., *consumer* information) recited in claim 3; however, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP*, 2106.

In addition, the Examiner respectfully submits that col. 12, lines 4-25 of Kennedy teaches the entering of information for the calculations. As such, it is readily apparent that there is an interface that is used to receive information for evaluation purposes.

Argument F:

In response to Appellant's sixth argument, the Examiner's broadest reasonable interpretation of reprogramming the expression evaluation routine would include the modification of criteria used in the calculations (see paragraphs 35 and 67-68 of Fenton).

(11) Related Proceeding(s) Appendix

Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner's answer are provided herein.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/LENA NAJARIAN/
Examiner, Art Unit 3686
LN
November 16, 2009

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686

Conferees:

Gerald J. O'Connor /GJOC/
Supervisory Patent Examiner
Technology Center 3600

Vincent A. Millin /vm/
Appeals Practice Specialist
Tech Center 3600

Application: 09/521,005

Paper No. 20091116

Art Unit: 3686

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BRENN A. BROCK
CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758